



UNITED STATES DEPARTMENT OF COMMERCE  
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92844  
SERIAL NUMBER 077524-344 FILING DATE 08/11/92 FRIESE FIRST NAMED INVENTOR A ATTORNEY DOCKET NO. 185144

REICHEL, K

EXAMINER

33M1

AUDLEY A. CIAMPORCERO, JR.  
JOHNSON & JOHNSON  
ONE JOHNSON PLAZA  
NEW BRUNSWICK, NJ 08933-7003

285081

PAPER NUMBER

05/13/93

DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined

☒ Responsive to communication filed on 2-1-93

☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☒ Notice of References Cited by Examiner, PTO-892.
2. ☐ Notice re Patent Drawing, PTO-948.
3. ☒ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of Informal Patent Application, Form PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474.
6. ☐

Part II SUMMARY OF ACTION

1. ☒ Claims 1-12 and 14-22 are pending in the application.

Of the above, claims are withdrawn from consideration.

2. ☐ Claims have been cancelled.

3. ☐ Claims are allowed.

4. ☒ Claims 1-12 and 14-22 are rejected.

5. ☐ Claims are objected to.

6. ☐ Claims are subject to restriction or election requirement.

7. ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed on, has been ☐ approved. ☐ disapproved (see explanation).

12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received  
☐ been filed in parent application, serial no. ; filed on

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

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This application does not contain an Abstract of the Disclosure as required by 37 C.F.R. § 1.72(b). An Abstract on a separate sheet is required.

The amendment filed February 1, 1993 is objected to under 35 U.S.C. § 132 because it introduces new matter into the specification. 35 U.S.C. § 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Page 1, line 36 and page 5, lines 8-9, page 3, lines 20-21, page 7, line 26.

On page 1, line 36 and page 5, lines 8-9, as best understood, see claim 1, the absorbent portion is the wound blank. Therefore, there is support for the wound blank consisting of fibers with a weight which can have a specific absorption capacity and rate of absorption. There is only support for the tampon having such. The amendments on pages 3 and 7 are not supported, as there is no support for there being more than one embodiment.

Applicant is required to cancel the new matter in the response to this Office action.

The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains,

or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate written description of the invention and the specification, as originally filed, does not provide support for the invention as is now claimed.

1. On page 1, lines 4-5 and 6-7 would be in better form if "according ... claim 1" and "according ... and 13" were deleted.

2. Claims 2-4 as now set forth are not supported by the specification as originally filed. See page 1, lines 35 et seq., page 2, lines 1-6 and page 5.

3. On page 4, line 22, "have been" should be --will be--.

4. On page 8, line 36, "7" should be --10--.

5. The disclosure should be commensurate in scope with claim 6, lines 13-16.

Claims 2-4 are rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

Claims 1-12 and 14-22 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-12 and 14-22 are still replete with improper claim syntax. In regard to claim 1, line 9

is indefinite in that it is unclear what the terminology, "the resulting tampon" refers to. The tampon resulting from pressing at a first pressure? However, this would appear to be inaccurate as a "preform" results from such pressing. Or is Applicant referring to a tampon resulting from pressing at first and second pressures? However, this is not clear from the claim language. Therefore, it is unclear whether the "softer fiber structure" referred to on line 15 is the same as "a soft structure" on line 24. Claim 1 might overcome these informalities if rewritten to set forth the structure of the tampon first and then set forth the process used to reach the form of the tampon. In regard to claim 2, is the "length of tape shaped non-woven material" in claim 1 and "a needle non-woven tape" in this claim one and the same. In regard to claim 6, line 8 "in" should be --of--. In regard to claim 9, lines 3-4 are inaccurate, i.e., there are at least six press dies all together not in each group. On line 6, before "tampon", --a-- should be --the--. Also, lines 13-16 appear to be inaccurate, i.e., the end faces 25 and 26 do not form an essentially cylindrical pressing face, see Fig. 9 for example. In line 21, before "tampon", "a" should be --the--. Also, lines 20-21 appear to be inaccurate, i.e., a rib is formed between two adjacent press cutters. Positive structural antecedent basis for "the press axis" (line 23) and "the diameter" (line 26) should be defined. Also, a positive

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structural antecedent basis for "the final ... tampon" (last two lines) should be defined. In regard to claim 10, lines 2-3, Applicant appears to be inferentially claiming a curved press die end face. A clear positive structural antecedent basis for such should be set forth. In regard to claim 17, a positive structural antecedent basis for "the diameter" (line 4) should be defined. In regard to claim 19, lines 2 and 5, "a" should be --the--. In regard to claim 20, a positive structural antecedent basis for radially inward compression to form the core (lines 11-13) should be defined. It should be noted that these examples are merely illustrative of the informalities in claims 1-12 and 14-22. The claims should be carefully reviewed and revised as necessary. Applicants are thanked in advance for their cooperation in placing the claims in proper form.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the

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time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claim 20 is rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103 as obvious over Rabell. The Rabell tampon includes, i.e. see Fig. 3 and col. 5, lines 8-12, the claimed structure. In any case, the Rabell tampon obviously includes the claimed structure, see 706.03 (e).

The remainder of the claims, as best understood, define over the art.

Applicants' remarks have been considered but are deemed non-persuasive in the those rejections have not been repeated.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Kramer et al device filed November 2, 1990 includes winding and compressing.

Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a). The practice of automatically extending the shortened statutory period an

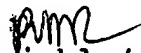
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additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

  
K. Reichle/dh  
May 07, 1993  
May 11, 1993  
703-308-0858

  
RANDALL L. GREEN  
SPE  
ART UNIT 338